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Docket No. DAS-104XC1  
Serial No. 10/754,115Remarks

The applicants and the undersigned would like to thank Examiners Kosson and Prouty for the courtesy extended to the undersigned and Dr. Hey during the in-person interview on June 7, 2007. The applicants await an Interview Summary from the examiner.

Claims 1, 2, 4, 5, 7, 12, 14, 21-25, 30, 32, and 33 were the subject of the office action dated December 19, 2006. By this response, claims 1, 2, 4, 5, 7, 12, 14, 30, 32, and 33 are canceled without prejudice, and claims 34-42 are added. Thus, claims 21-25 and 34-42 are now presented for further consideration.

Claims 7 and 25 were indicated to be allowable. In light of the non-prejudicial canceling of claim 1, claim 7 is canceled in favor of claim 42.

The term "controlling or" is removed from claim 21 to be consistent with other claims. Inhibiting can be killing, preventing from feeding, and the like, and thereby controlling the insect.

Nomenclature in the claims, such as "toxin complex" and "A component," "B component," and "C component" is consistent with that used throughout the specification and in HReach-Constant and Waterfield, "An ABC Guide to the Bacterial Toxin Complexes," *Advances in Applied Microbiology* (2006), Volume 58, pp. 169-183. See e.g. pages 169-170.

"Activity against" an insect is defined in specification paragraph 158, for example. As discussed therein, protein toxins can function as such alone or in combination. Paragraph 30, for example, explains that "stand alone" Toxin A's are thought to form a homotetramer; the BC potentiators thus increase the apparent activity of the Toxin A's, as exemplified throughout the specification and as discussed in more detail below.

Independent claims 21 and 34 include all three of the elected sequences. Independent claim 36 includes the elected B and C sequences. As discussed during the in-person interview, the applicants respectfully request that all of the sequences referred to in the claims be searched if necessary. The subject invention relates in part to surprisingly new ways to use a great variety of sequences. The subject invention is not limited to one particular combination of sequences. While the applicants recognize and appreciate that this may put additional search burdens on the office and the examiner, it would also be unduly burdensome (and completely financially

prohibitive) to require the applicants to file divisional applications for each particular combination of components that were shown in the subject application to be surprisingly functional (and actually *better* than native combinations).

The withdrawal of the rejection for lack of an adequate written description is respectfully requested. As discussed during the in-person interview, many combinations of many A, B, and C components were tested and were surprisingly shown to work successfully. For the elected XptA2 component, *see e.g.* specification Tables 13-15 and 34-42. The claims are believed to include a reasonable scope of variants using language that is indicated to be permissible in the Written Description Guidelines.

The withdrawal of the rejection for lack of enablement is respectfully requested. Again, many combinations of many A, B, and C components were tested and were surprisingly shown to work successfully. For the elected XptA2 component, *see e.g.* specification Tables 13-15 and 34-42. The claims are believed to include a reasonable scope of variants that one skilled in the art could readily make and use with the expectation of success, having the benefit of the disclosure of the subject application. The Written Description Guidelines, for example, also indicate that making and using such variants are typically within the skill of the art.

As discussed during the interview, "maintains hybridization" is replaced more simply with "hybridizes."

Regarding the obviousness-type double patenting rejection, and without acquiescing to the statements made in the office action in support of this rejection, the applicants will consider filing a terminal disclaimer with their next response.

The applicants believe that this application is in condition for allowance, and such action is earnestly solicited.

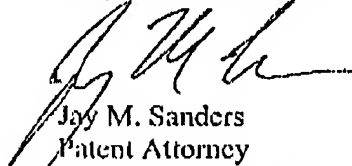
The Assistant Commissioner is hereby authorized to charge any fees under 37 CFR §§1.16 and 1.17 as required by this paper to Deposit Account 19-0065.

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The applicants invite the Examiner to call the undersigned if clarification is needed on any of this response, or if the Examiner believes a telephonic interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,

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